

II. Independent Claim 30

The present application discloses, with reference to Figures 2, 6, and 8, an arrangement in which the back cushion 25 is sealed to tube 26 along a length of the tube 26. This stands in contrast to Brain '879 in which the back cushion 50 is sealed to tube 51 at one location of tube 51, but NOT along a length of tube 51.

Independent claim 30 has been amended to clarify that the portion of the back cushion that is adhered to the tube extends "from a first location to a second location, the first location being near a distal end of the evacuation tube, the second location being spaced apart from the first location in a direction towards a center of the mask". Brain '879 does not teach such an arrangement and independent claim 30 is believed to patentably distinguish over Brain '879.

Dependent claims 32-35, which depend from independent claim 30, are accordingly also believed to patentably distinguish over Brain '879.

III. New Independent Claim 39

New independent claim 39 requires the portion of the evacuation tube that is sealed to the back cushion to extend "from near the distal end of the evacuation tube towards the proximal end of the evacuation tube". Again, Brain '879 discloses sealing the back cushion 50 to tube 51 at only one location and not over an extent of the tube as claimed in new claim 39. For at least these reasons, new independent claim 39 is believed to patentably distinguish over Brain '879.

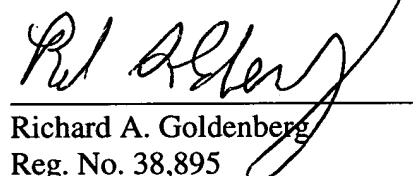
IV. Conclusion

Claims 1-30 and 32-39, the claims remaining in the application, are believed to define allowable subject matter. An early and favorable examination is earnestly solicited. If there are any remaining issues, the Examiner is urged to contact the undersigned at the telephone number listed below.

The Commissioner is authorized to charge Deposit Account No. 08-0219 the fee of \$502.00 (\$42.00 to cover the cost of new independent claim 39 and \$460 to cover the requested three month extension of time). No other fees are believed to be due in connection with this paper. However, please charge any fees, or credit any overpayment, that may be due in connection with this paper to Deposit Account No. 08-0219.

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Date

Respectfully submitted,

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